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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/133,856	08/13/98	JOHNSON	10172-9013-X

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EXAMINER
BRITTAIN, J

ART UNIT	PAPER NUMBER
3626	

DATE MAILED: 04/13/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/133,856

Applicant(s)

JOHNSON, JAMES R.

Examiner

James R. Brittain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 52-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 52-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 August 1998 is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

DETAILED ACTION***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 2, 2001 has been entered.

Specification

The disclosure is objected to because of the following informalities: Page 22 of the substitute specification filed September 15, 2000 is objected to because the right-hand-side has insufficient margin and portions of the text on the right side have been cut-off.

Appropriate correction is required.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The use of the term "H-shaped" (claim 52) lacks antecedent basis in the specification.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "H-shaped" fastener flanges in which the first and second legs comprise a closed loop beyond the

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portions substantially parallel to each other (claim 53) must be shown or the feature(s) canceled from the claim(s). For example, figure 15 doesn't show "H-shaped" fastener flanges. Figure 10 shows "H-shaped" fastener flanges, but the legs don't comprise a closed loop beyond the portions substantially parallel to each other. No new matter should be entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 53 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. A species comprising "H-shaped" fastener flanges in which the first and second legs comprise a closed loop beyond the portions substantially parallel to each other is not described in the application as filed.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 52-55 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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The bounds on "H-shaped" are unclear. The term is not used in the specification and it isn't clear what further structure defines the "mounting lip". It is considered to be a portion of the "H-shape".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 52 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by McMahon et al. (US 4,909,017).

McMahon et al. (figures 1, 2, 5, 6) teaches placing H-shaped fastener flanges 16, 17, 18, 41, 42 at spaced locations along the length of the web. The flanges have leg portions 43, 44 extending substantially parallel to each other with interlocking portions extending substantially perpendicular to each leg. A portion of the leg is considered to be a mounting lip in the same manner as applicant's figure 12 which shows both legs secured to the web.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 53-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over McMahon et al. (US 4,909,017) in view of Weeks (US 5,092,684).

McMahon et al. (figures 1, 2, 5, 6) teaches placing H-shaped fastener flanges 16, 17, 18, 41, 42 at spaced locations along the length of the web. The flanges have leg portions 43, 44 extending substantially parallel to each other with interlocking portions extending substantially perpendicular to each leg. A portion of the leg is considered to be a mounting lip in the same manner as applicant's figure 12 which shows both legs secured to the web. The difference is that the first and second legs don't form a closed loop beyond the parallel portions. However, Weeks (figure 3) teaches the use of an H-shaped fastener flange 14 with a looped portion to the far left with the interlocking fastener extending orthogonally from the parallel portions of the legs to be a well known fastener configuration for a fastener flange so as to provide enhanced sealing at the top of the bag. It would have been obvious to modify the web structure of McMahon et al. so that the first and second legs form a closed loop beyond the parallel portions in view of Weeks teaching the use of an H-shaped fastener flange 14 with a looped portion to the far left with the interlocking fastener extending orthogonally from the parallel portions of the legs to be a well known fastener configuration for a fastener flange so as to provide enhanced sealing at the top of the bag. In regard to claim 54, Weeks suggests fastener flanges 0.5 mils to 3 mils (col. 5, lines 50-52), thereby rendering obvious applicant's range of up to 4 mils. As to claim 55, Weeks suggests making the interlocked fastener 18, 20 at a different time from the supporting flange, thereby providing a non-homogeneous fastener as a mechanical expedient.

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents of Cook et al. (US 5,174,658), Malin et al. (US 6,115,892) , Bois (US 5,826,401), Bentsen (US 4,651,504), Tilman (US 5,024,537), and Yeager (US 5,461,845; 5,806,984; 6,177,172) teach pertinent fastener structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is 703-308-2222. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on 703-308-3179. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


James R. Brittain
Primary Examiner
Art Unit 3626

jrb
April 11, 2001